

Message Text

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FM AMEMBASSY MASERU

TO SECSTATE WASHDC 5775

INFO AMEMBASSY MBABANE

AMEMBASSY GABORONE

AMCONSUL DURBAN

C O N F I D E N T I A L MASERU 0511

E.O. 11652: GDS

TAGS: PINT, SHUM, LT

SUBJECT: TREASON TRIALS: APPEALS COURT HANDS DOWN JUDGMENT

REF: 75 MASERU 742 AND PREVIOUS

1. BEGIN UNCLASSIFIED. LESOTHO COURT OF APPEALS TODAY HANDED DOWN JUDGMENT IN CASES OF FORTY APPELLANTS FROM CONVICTIONS AND SENTENCING FOR TREASON, SEDITION, AND CONTRAVENTION OF INTERNAL SECURITY ACT HANDED DOWN IN TWO TRIALS ARISING OUT OF JANUARY 1974 COUP ATTEMPT.

2. APPELLANTS WERE HANDLED IN TWO GROUPS OF TWENTY. OF FIRST GROUP OF TWENTY, ALL APPEALS FAILED WITH EXCEPTION OF ONE APPELLANT WHO, WITH PROSECUTION'S CONCURRENCE, WAS ACQUITTED AND DISMISSED ON GROUNDS THAT CASE AGAINST HIM HAD NOT BEEN PROVED BEYOND REASONABLE DOUBT. OF SECOND GROUP OF TWENTY, THREE APPELLANTS SUCCEEDED AND THEIR CONVICTIONS AND SENTENCINGS WERE SET ASIDE; THREE OTHER APPELLANTS HAD CONVICTIONS FOR TREASON SET ASIDE, VERDICTS OF GUILTY ON ALTERNATE CHARGE OF CONTRAVENTION OF INTERNAL SECURITY ACT SUBSTITUTED, AND WERE SENTENCED TO THREE YEARS IMPRISONMENT WITH TWO YEARS SUSPENDED, MEANING THEY WILL BE RELEASED IMMEDIATELY AS THEY HAVE ALREADY SERVED MORE THAN ONE YEAR. REMAINING FOURTEEN APPELLANTS IN SECOND GROUP FAILED. THUS OF FORTY APPELLANTS,
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FOUR SUCCEEDED IN HAVING CONVICTIONS SET ASIDE, THREE HAD

CONVICTIONS AND SENTENCES SUBSTANTIALLY REDUCED, AND THIRTY-THREE FAILED ENTIRELY IN THEIR APPEALS.

3. FINDINGS OF THREE-MAN COURT WERE UNANIMOUS. COURT DID NOT READ OUT REASONS BEHIND JUDGMENTS; THESE WILL BE ISSUED LATER. COURT DID NOTE, HOWEVER, THAT ARGUMENT OF DEFENSE ON BEHALF OF FIVE APPELLANTS TO EFFECT THAT GOVERNMENT OF LESOTHO WAS NOT LEGITIMATE AND THAT THEREFORE IMPORTANT ELEMENT IN CORPUS DELECTI OF TREASON WAS NOT PRESENT WAS WITHOUT SUBSTANCE.

4. IN HANDING DOWN JUDGMENT, COURT COMMENTED THAT IN THE QUESTION OF SENTENCES, THE POWERS OF THE COURT WERE SEVERELY CIRCUMSCRIBED. COURT NOTED, HOWEVER, THAT POWER OF CLEMENCY, INCLUDING POWER OF FULL PARDON, RESIDED IN THE EXECUTIVE, WHICH WOULD DOUBTLESS GIVE DUE CONSIDERATION TO QUESTION WHETHER THAT POWER SHOULD BE EXERCISED AND DOUBTLESS WOULD TAKE INTO CONSIDERATION THE AMOUNT OF TIME APPELLANTS HAD ALREADY SPENT IN CUSTODY, BOTH BEFORE AND AFTER TRIALS. END UNCLASSIFIED.

5. BEGIN CONFIDENTIAL. LAWYERS FOR BOTH PROSECUTION AND DEFENSE TOLD EMBOFF THAT COURT'S CLOSING COMMENT WAS A DIRECT SUGGESTION TO EXECUTIVE THAT ITS POWERS OF CLEMENCY SHOULD BE EXERCISED. MANY OBSERVERS BELIEVE THAT, NOW THAT APPEALS COURT HAS UPHOLD MAJORITY OF CONVICTS IN TREASON TRIALS, GOVERNMENT MAY WELL GRANT PARDONS TO MOST OR ALL OF REMAINING PRISONERS BEFORE TENTH ANNIVERSARY OF INDEPENDENCE, OCTOBER 2.

6. FOR DURBAN: PROF. BAREND VAN NIEKIRK OF UNIVERSITY OF NATAL WAS AMNESTY INTERNATIONAL'S OBSERVER AT TREASON TRIALS AND HAS KEEN INTEREST IN OUTCOME. AT YOUR DISCRETION, YOU MAY WISH CONVEY ABOVE INFORMATION TO HIM.
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